

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4724 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DIST EDUCATION OFFICER

Versus

JAYABEN J DAVE

Appearance:

MS MANISHA LAVKUMAR, AGP, for Petitioner
MR DIPAK DAVE for MR AD OZA for Respondent No. 1
None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/07/2000

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. It is not in dispute that for the period from
19th November, 1966 to 15th June, 1974, the respondent

No.1 worked with respondent No.3 school as a part-timer. During the years 1974-75 and 1975-1976, the respondent No.1 failed to produce any evidence whatsoever that she was in the employment of any of the schools as a full timer or part-timer. Only what it is stated that during the period of 1975-76 she was studying B.Ed. The respondent No.1 was studying B.Ed. course, that period cannot be counted towards her qualifying services more so when it is not the case of the respondent No.1 that she has been sent for this course as an in-service candidate by the State of Gujarat. The respondent No.1 was given the appointment only on 16-11-1976 as a full timer.

3. Ms. Manisha Lavkumar, learned counsel for the petitioner contended that the part-time services should not be counted as qualifying services for eligibility of the respondent No.1 for selection scale. It is urged that the Tribunal has counted his services towards the qualifying services for selection scale relying on its earlier decision. What she contended that there is no provision for counting of the part-time services as qualifying services for selection scale.

4. Learned counsel for the respondent No.1 has failed to show any provision from the service rules or the standing order or the resolution of the Government where such a part-time services are taken to be countable towards the qualifying services for selection scale. The part-time services cannot be counted for qualifying services for selection scale. These are only part-time services. Learned counsel for the respondent has failed to produce on the record of this special civil application the decision of the Tribunal on which it has placed reliance in support of its judgment counting part-time services towards the qualifying services for selection scale. The judgment of service Tribunal is not binding on this court. Unless some Rule or Standing Order or Circular of the Government provides so it is difficult to accept this claim of the respondent No.1. If we go by the facts of this case, her services could have been counted for qualifying services for selection scale from the date on which she has been appointed as a full time teacher. There is an error apparent on the fact of the order of the Tribunal in counting the part-time services of the respondent No.1 as well as the period from 1974-1975 and 1975-1976, the service period for the purpose of qualifying services for eligibility for the selection scale.

5. In the result, this special civil application succeeds and the same is allowed and the order of the

Gujarat Secondary Education Tribunal at Ahmedabad dated 29th November, 1990 in Application No.518 of 1988 is quashed and set aside. Rule is made absolute. Whatever benefits which are being given to the respondent No.1 in pursuance of the order of the Tribunal are recoverable from her by the respondent No.1. The respondent No.1 is directed to pay Rs.500/- as costs of this petition to the petitioner.

zgs/-